

ASSEMBLY BILL

No. 175

Introduced by Assembly Member Donnelly

January 24, 2011

An act to amend and repeal Section 11191 of the Penal Code, relating to inmates, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 175, as introduced, Donnelly. Inmates: transfers.

Existing law, operative until July 1, 2011, or until the Department of Corrections and Rehabilitation has replaced temporary beds, as defined, authorizes any court, agency, or officer having power to commit or transfer an inmate, to any institution for confinement, to commit or transfer that inmate to any institution within or without this state if this state has contracted for the confinement of inmates in that institution pursuant to one of 2 specified compacts. Existing law provides that at any time more than 5 years after the transfer, the inmate shall be entitled to revoke consent and to transfer to an institution in this state. Existing law prohibits the transfer or commitment of an inmate with serious medical or mental health conditions, as determined by the Plata Receiver, or an inmate in the mental health delivery system, as specified, to an institution outside of this state unless he or she has executed a written consent to the transfer.

This bill would remove the inmate's right to revoke his or her consent and make other conforming changes. The bill would delete the sunset date on existing law and make the above provision operative indefinitely.

Existing law, operative on July 1, 2011, or at such time that the department has replaced temporary beds, in addition to the provisions operative until July 1, 2011, prohibits inmates to be committed or

transferred to an institution outside this state unless he or she has executed a written consent to the transfer and omits the provision above regarding inmates with medical conditions.

This bill would repeal the provision that becomes operative on July 1, 2011.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11191 of the Penal Code, as amended
2 by Section 25 of Chapter 7 of the Statutes of 2007, is amended to
3 read:

4 11191. (a) Any court or other agency or officer of this state
5 having power to commit or transfer an inmate (as defined in Article
6 II(d) of the Interstate Corrections Compact or of the Western
7 Interstate Corrections Compact) to any institution for confinement
8 may commit or transfer that inmate to any institution within or
9 without this state if this state has entered into a contract or contracts
10 for the confinement of inmates in that institution pursuant to Article
11 III of the Interstate Corrections Compact or of the Western
12 Interstate Corrections Compact. The inmate shall have the right
13 to a private consultation with an attorney of his *or her* choice, or
14 with a public defender if the inmate cannot afford counsel,
15 concerning his *or her* rights and obligations under this section,
16 and shall be informed of those rights ~~prior to executing the written~~
17 ~~consent. At any time more than five years after the transfer, the~~
18 ~~inmate shall be entitled to revoke his consent and to transfer to an~~
19 ~~institution in this state. In which case, the transfer shall occur~~
20 ~~within the next 30 days.~~

21 (b) Notwithstanding subdivision (a), no inmate with serious
22 medical or mental health conditions, as determined by the Plata
23 Receiver, or an inmate in the mental health delivery system at the
24 Enhanced Outpatient Program level of care or higher may be
25 committed or transferred to an institution outside of this state unless
26 he *or she* has executed a written consent to the transfer.

27 ~~(c) This section shall remain in effect only until July 1, 2011,~~
28 ~~or until such time as the Department of Corrections and~~

1 ~~Rehabilitation has replaced “temporary beds,” as defined in~~
2 ~~paragraph (3) of subdivision (a) of Section 15819.34 of the~~
3 ~~Government Code, whichever is sooner, and as of January 1, 2012,~~
4 ~~shall be repealed, unless a later enacted statute deletes or extends~~
5 ~~that date.~~

6 SEC. 2. Section 11191 of the Penal Code, as added by Section
7 26 of Chapter 7 of the Statutes of 2007, is repealed.

8 ~~11191. (a) Any court or other agency or officer of this state~~
9 ~~having power to commit or transfer an inmate (as defined in Article~~
10 ~~H (d) of the Interstate Corrections Compact or of the Western~~
11 ~~Interstate Corrections Compact) to any institution for confinement~~
12 ~~may commit or transfer that inmate to any institution within or~~
13 ~~without this state if this state has entered into a contract or contracts~~
14 ~~for the confinement of inmates in that institution pursuant to Article~~
15 ~~III of the Interstate Corrections Compact or of the Western~~
16 ~~Interstate Corrections Compact, but no inmate sentenced under~~
17 ~~California law may be committed or transferred to an institution~~
18 ~~outside of this state, unless he or she has executed a written consent~~
19 ~~to the transfer. The inmate shall have the right to a private~~
20 ~~consultation with an attorney of his choice, or with a public~~
21 ~~defender if the inmate cannot afford counsel, concerning his rights~~
22 ~~and obligations under this section, and shall be informed of those~~
23 ~~rights prior to executing the written consent. At any time more~~
24 ~~than five years after the transfer, the inmate shall be entitled to~~
25 ~~revoke his consent and to transfer to an institution in this state. In~~
26 ~~such cases, the transfer shall occur within the next 30 days.~~

27 ~~(b) This section shall become operative on July 1, 2011, or at~~
28 ~~such time as the Department of Corrections and Rehabilitation has~~
29 ~~replaced “temporary beds,” as defined in paragraph (3) of~~
30 ~~subdivision (a) of Section 15819.34 of the Government Code,~~
31 ~~whichever is sooner.~~

32 SEC. 3. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety within
34 the meaning of Article IV of the Constitution and shall go into
35 immediate effect. The facts constituting the necessity are:

36 In order to facilitate the use of commitments and transfers of
37 inmates to institutions outside those managed by the Department
38 of Corrections and Rehabilitation, thereby alleviating the state’s

- 1 overcrowding crisis, it is necessary that this act take effect
- 2 immediately.

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